

REMARKS

Summary of the Office Action

The Office Action rejects claims 24-25 under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claims 24-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cardwell et al.* (hereinafter (“*Cardwell*”), U.S. Patent No. 6,895,403, in view of *Selling by Objective* (May 1984) (hereinafter (“*SBO*”).

Summary of the Response to the Office Action

Applicants cancel claims 24-29 without prejudice or disclaimer. Accordingly, claims 30-35 are presently pending.

All Subject Matter Complies with 35 U.S.C. § 112, second paragraph

Applicants have canceled claims 24-29 without prejudice or disclaimer in order to expedite the prosecution of this case. Applicants respectfully submit that the rejection of claims 24-29 under 35 U.S.C. § 112, second paragraph, is moot in light of the claims cancellation. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

All Claims Comply With 35 U.S.C. § 103(a)

Applicants respectfully assert that the rejections under 35 U.S.C. § 103 are improper and should be reversed. Applicants argue the rejections of independent claims 30 and 31 together. The dependent claims stand or fall with their respective independent claims, and are not argued separately.

A. *Cardwell* and SBO Fail to Prompt One of Ordinary Skill in the Field to Combine Elements of the Prior Art to Obtain Each and Every Element of Claims

Claims 24-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,895,403 (*Cardwell*), in view of *Selling by Objective* (SBO), May 1984. Claims 24-29 are canceled. Applicants respectfully traverse this rejection as being based upon references that when combined neither teach nor suggest the novel combination of features recited in independent claims 30 and 31.

1. Neither *Cardwell* Nor SBO Teach or Suggest a Multi-Dimensional Matrix

The Office Action begins by stating at page 8 that *Cardwell* discloses the multi-dimensional matrix recited in claims 30 and 31 at *Cardwell* 5:19-23 and FIG. 1. Applicants respectfully disagree.¹ Independent claims 30 and 31 recite in part “a database in the form of a multi-dimensional matrix.” In contrast, *Cardwell* discloses a hierarchical management method for managing an objectives-based business plan that looks at various parameters individually. Rather than teaching a matrix approach, *Cardwell* 5:19-23 teaches that “upper management of the organization determines the future of the organization.” *Id.* (emphasis added). *Cardwell* begins at the organizational level and works down to the individual level. A project scope is not discussed at the next level until it has “trickled down” from the level above. *Cardwell* at 6:30-34.

Cardwell further discloses that the “top level of the system can be divided into as many pieces as necessary,” *Cardwell* at 5:44-45 (emphasis added), or “[the system] can start as one piece and have divergent pieces from there.” *Id.* at 5:47-48 (emphasis added). There

¹ Applicants also note that the Office Action contradicts this assertion at page 9, lines 20 and 21, stating that for claim 30 “*Cardwell* et al does not explicitly disclose storing on four axes simultaneously an initial target” (emphasis added), but does for claim 31. See page 10, lines 9-11.

is no evaluation of how performance in one area affects performance in other project areas. See, e.g., *Cardwell* 5:57-59. Instead, management sets the scope, authority, and limits for each priority individually. *Id.* at 6:57-61. Manager and team member performance are evaluated based on single-variable criteria. This is shown, for example, at *Cardwell* 8:59 and in example A on columns 4 and 5. There, *Cardwell* lists priorities in a single column. Each priority is evaluated independently of the others, using fixed subcategories specific to the particular criterion. *Cardwell* 6:46-48. Accordingly, *Cardwell* evaluates parameters in isolation, and does not disclose, teach or suggest “a database in the form of a multi-dimensional matrix.”

SBO fails to overcome the deficiencies of *Cardwell*. Like *Cardwell*, SBO teaches a method of setting priorities (objectives), evaluating them on a periodic basis, and measuring their achievement independently. SBO ¶ 5 (emphasis added). Each objective is evaluated independently of other priorities. Rather than teaching a matrix, SBO teaches that the parameters used to measure each objective in SBO are merely subobjectives of an isolated objective. SBO ¶ 10. Accordingly, Applicants respectfully assert that amended independent claims 30 and 31 are allowable over *Cardwell* and SBO, whether taken singly or combined. Moreover, Applicants respectfully assert that dependent claims 32-35 also are allowable at least because of their respective dependencies from independent claims 30 and 31, and the reasons set forth above.

2. Neither *Cardwell* Nor SBO Teach or Suggest Four Inter-related Axes That Communicate Horizontally and Vertically With Each of the Other Four Axes

Independent claims 30 and 31 recite in part “four inter-related axes” that “communicate both horizontally and vertically with each of the other axes.” The Office

Action asserts at pages 8-9 and 10 that *Cardwell* teaches this feature at column 11, lines 62-67. Applicants respectfully disagree. Even if *Cardwell* disclosed “four inter-related axes” at 11:62-67 (which Applicants submit it does not) the *Cardwell* axes would not “communicate both horizontally and vertically with each of the other four axes” (emphasis added). Instead, changes are only communicated along a single axis. For example, *Cardwell* discloses that when one business priority changes, “the team and individual who are working on this priority will be notified of the change so they can adjust the task or project they are working on.” *Id.* at 12:36-39 (emphasis added).

SBO fails to remedy the deficiencies noted above. Even if the objectives and sub-objectives of SBO were “based upon the four considerations (*i.e.*, axes)” (and Applicants submit they are not), they would still fail to teach or suggest “wherein each of the four axes communicate both horizontally and vertically with each of the other four axes” (emphasis added). Instead, each sub-objective falls under an “‘umbrella’ objective”, SBO ¶ 14, with “a list of sub-objectives needed to reach the main objective.” SBO ¶ 15 (emphasis added). The “considerations” the Office Action points to in SBO ¶¶ 21-23 (at page 10 of the Office Action) are actually nothing more than sub-objectives of a single main objective – forecasted sales. Like *Cardwell*, SBO fails to teach or suggest “four inter-related axes” that “communicate both horizontally and vertically with each of the other axes.” Accordingly, Applicants respectfully assert that amended independent claims 30 and 31 are allowable over *Cardwell* and SBO, whether taken singly or combined. Moreover, Applicants respectfully assert that dependent claims 32-35 also are allowable at least because of their respective dependencies from independent claims 30 and 31, and the reasons set forth above.

3. Neither *Cardwell* Nor SBO Teach Arbitrarily and Simultaneously Selected Axes

Independent claims 30 and 31 further recite “managing an achievement of the target by reading the said initial target and said actual performance and arbitrarily selecting any one or more from said four axes simultaneously” and “displaying a table of said initial target and/or said actual performance along the arbitrarily and simultaneously selected axis or axes on the local and/or remote terminal, wherein said initial target is ranked and sorted by value of the initial target.”

The Office Action asserts at pages 9 and 11 that *Cardwell* teaches “arbitrarily selecting any one or more [parameters] from said four axes simultaneously.” Applicants respectfully disagree. For example, in *Cardwell*, individual teams are assigned to a “particular” business priority. Performance in *Cardwell* is evaluated on accomplishment of “chronological listing[s]” of “specific outcomes,” of a single portion of the project. *Cardwell* at 7:49-51. Each step is done sequentially, and the scope of the project is not discussed at the next level until it has “trickled down” from the level above. *Cardwell* at 6:30-31. Accordingly, Applicants assert that *Cardwell* lacks any teaching or suggestion of “arbitrarily selecting any one or more [parameters] from said four axes simultaneously.”

Applicants note that the Office Action does not rely on SBO, alone or combined with *Cardwell*, to correct the deficiency noted above. Moreover, Applicants respectfully submit that neither reference can remedy this deficiency. Accordingly, Applicants respectfully assert the rejections under 35 U.S.C. § 103(a) should be withdrawn because each reference, alone or combined, fails to disclose each and every element of independent claims 30 and 31. Furthermore, both references also fail to provide any reason that would prompt one of

ordinary skill in the relevant field to combine elements of the prior art in the way the claimed invention does in claims 30 and 31. Moreover, Applicants respectfully assert that dependent claims 32-35 also are allowable at least because of their respective dependencies from independent claims 30 and 31, and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicants respectfully request entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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